

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:) Chapter 11
) (Subchapter V)
Ford City Condominium Association)
) Judge Carol A. Doyle
Debtor/Debtor-in-possession)
) Case No. 21-05193

NOTICE OF MOTION

PLEASE TAKE NOTICE that on the **5th day of August 2021 at the hour of 10:00 a.m.**, or as soon thereafter as counsel can be heard, I shall appear before the Honorable Carol A. Doyle, Bankruptcy Judge, or before any other Judge who may be sitting in Judge Doyle's place, and present the **Motion for Contempt and Sanctions for Violation of Automatic Stay and for Other Relief**, a copy of which is attached hereto and herewith served upon you.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use the link: <https://www.zoomgov.com/>. Then enter the meeting ID and password.

To appear by telephone, (1) call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and password.

Meeting ID and password. The meeting ID for this hearing is **161 155 8289** and the password id **Doyle742**. The meeting ID and password can also be found on the judge's page on the court's web site.

To reach Judge Doyle's web page go to www.ilnb.uscourts.gov and click on the tab for Judges.

If you object to this motion and want it called on the presentment date above, you may file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

/s/Jacob Comrov
Crane, Simon, Clar & Goodman
135 S. LaSalle St., Ste. 3950
Chicago, Illinois 60603
(312) 641-6777
jcomrov@cranesimon.com

CERTIFICATE OF SERVICE

The undersigned, being first duly sworn on oath deposes and states that he caused a copy of the foregoing Notice and attached Motion to be served on all parties listed on the attached Service List via the Court's Electronic Registration (ECF) on the 14th day of July 2021, before the hour of 5:00 p.m.

/s/ Jacob D. Comrov

SERVICE LIST

- ☐ **Michael Morales** mike69216921@yahoo.com
- ☐ **William B Avellone** bill.avellone@charteredmgt.com
- ☐ **Matthew R Bowman** rbowman@lgattorneys.com
- ☐ **John J Conway** johnconway@shlawfirm.com
- ☐ **Daniel W Diamond** ddiamond@goldenlawpc.com
- ☐ **Patrick S Layng** USTPRegion11.ES.ECF@usdoj.gov
- ☐ **Phyllis Y Price** pprice@pricelawofc.com
- ☐ **Peter A Siddiqui** peter.siddiqui@katten.com, ecfdocket@kattenlaw.com
- ☐ **Shanita Q Straw** ssstraw@goldenlawpc.com, G5700@notify.cincompass.com

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In re:) Chapter 11
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) Judge Carol A. Doyle
Debtor.)
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MOTION FOR CONTEMPT AND SANCTIONS
FOR VIOLATION OF AUTOMATIC STAY AND FOR OTHER RELIEF

Ford City Condominium Association, Subchapter V, Debtor/Debtor-in-Possession herein (“Debtor”), by its counsel, Jacob D. Comrov and the firm of Crane, Simon, Clar & Goodman, submits their Motion for Contempt and Sanctions for Violation of the Automatic Stay and for other Relief, and in support thereof, states as follows:

I. BACKGROUND

1. On April 20, 2021 (the “Petition Date”), the Debtor filed its voluntary petition for relief under Subchapter V Chapter 11 of the Bankruptcy Code.

2. The Debtor has been operating its business and managing its financial affairs as debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtor is a not-for-profit condominium association located at 4300 West Ford City Drive, Chicago, Illinois on a contiguous parcel of real property with the Ford City Mall. The Debtor acts as a governing body regarding administration and operation for all condominium unit owners in the Ford City Condominium Association.

4. William Avellone has been appointed Subchapter V trustee in the Debtor’s Subchapter V Chapter 11 case.

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C § 1334. It is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (G) and (O). Venue is proper pursuant to 1408.

6. The statutory predicates are 11 U.S.C § 105(a) and 362.

II. MOTION FOR CONTEMPT AND SANCTIONS

7. On June 28, 2021, Michael Morales (“Morales”), filed an amended complaint in the Circuit Court of Cook County against the Debtor. The case number is 21 CH 370 (the “Complaint”). A copy of the Complaint is attached hereto as **Exhibit A** and incorporated by reference herein.

8. In the Complaint, Morales is seeking an injunction and other relief against the Debtor including monetary damages. The Complaint was filed more than two (2) months after the Debtor’s Petition Date.

9. Morales received prior notice that the Debtor was under bankruptcy protection before he filed his Complaint.

10. Notwithstanding giving prior notice, the Debtor’s attorneys have sent additional personal letters to Morales advising him that bankruptcy acts as a stay of any and all collection activities and to cease all collection activities at this time, but to no avail.

11. By violating the automatic stay, a debtor injured by any willful violation of a stay should recover actual damages, including costs and attorneys’ fees and in appropriate circumstances may recover punitive damages. *In re Kortz*, 283 B.R. 706, 712 (Bankr. N.D. Ohio 2002).

12. The term “willful” has been interpreted to mean simply acting intentionally and deliberately while knowing of a pending bankruptcy. *Id* at 712.

13. By filing the Complaint and moving forward against assets of the Debtor while the automatic stay was still in place, Morales has willfully violated said automatic stay. Acts or orders in violation of the automatic stay (11 U.S.C § 362) are ordinarily considered void. *Matthews v. Rosene*, 739 F.2d 249, 251 (7th Cir. 1984). The Debtor has had to spend time attempting to investigate the Complaint filed by Morales in the State Circuit Court action and in pursuing this Motion for Contempt Sanctions and Other Relief.

14. Pursuant to 11 U.S.C. § 105(a), the Bankruptcy Court for the Northern District of Illinois has found that punitive damages are appropriate to penalize creditors for willful violation of the automatic stay. *In re Sumpter*, 171 B.R. 835, 845 (Bankr. N.D. Ill. 1994).

15. The court may award punitive damages for particular egregious conduct for punitive and deterrent purposes.

16. In determining if punitive damages are appropriate, the Court has looked to (a) the nature of the creditors conduct; (b) the creditor's ability to pay damages; (c) the motive of the creditors; (c) a provocation by the debtor; as well as (d) the creditor's sophistication and knowledge of bankruptcy law and procedure. *Id* at 845, citing *M.J Shoearama*, 137 B.R. 182 (Bankr. W.D. Pa. 1992).

17. It is clear upon information and belief, that Morales's conduct was in willful violation of the stay; Morales has the ability to pay damages; there was no provocation by the Debtor that would warrant the filing of the Complaint in Circuit Court; and Morales was personally given notice and letters explaining bankruptcy law and procedure.

18. Morales's complete disregard for the authority and jurisdiction of the Bankruptcy Court is unwarranted and should be sanctioned. Accordingly, the Debtor seeks a finding of contempt against Morales.

WHEREFORE, FORD CITY CONDOMINIUM ASSOCIATION, Debtor/Debtor-Possession herein, respectfully requests this Court to grant the following relief:

- a. Enter an order sanctioning Michael Morales for his willful violation of the automatic stay;
- b. Enter an order directing Michael Morales to pay the Debtor's attorneys' fees in an amount to be determined;
- c. Enter an order prohibiting Michael Morales from proceeding with the Circuit Court case or any other case against the Debtor until the Debtor's Subchapter V Chapter 11 case has been concluded;
- d. Enter an order to show cause why Morales should not be held in contempt of court for the aforementioned intentional conduct;
- e. For such other and further relief as this Court deems just and appropriate.

Respectfully submitted,

FORD CITY CONDOMINIUM ASSOCIATION,

Debtors/Debtors-in-Possession

By: /s/Jacob D. Comrov
One of its attorneys

DEBTOR'S COUNSEL:

Scott R. Clar (Atty. No. 06183741)
Jacob D. Comrov (Atty. No. 06326738)
Crane, Simon, Clar & Goodman
135 S. LaSalle Street, Suite 3950
Chicago, Illinois 60603
312-641-6777
sclar@cranesimon.com
jcomrov@cranesimon.com